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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,650	09/19/2003	John Palazzo	30978.24008	4622

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EXAMINER

DEVORE, PETER T

ART UNIT PAPER NUMBER

3751

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/664,650

Applicant(s)

PALAZZO, JOHN

Examiner

Peter T deVore

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/17/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Shumate.

The Shumate reference discloses a waste oil management system for cooking apparatus 204 comprising a remote oil holding tank 80, transport tubing 208, and transferring means/pump 74.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, and 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shumate.

Regarding claims 1, 3, and 4, the Shumate reference discloses a waste oil management system for apparatus/fryers 204 comprising a remote oil holding tank 80, tubing 208, a pumping mechanism 74, but remains silent as to the tubing material. However, it would

have been obvious to one of ordinary skill in the art at the time the invention was made to use stainless steel tubing having a nonstick coating, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In *Re Leshin*, 125 USPQ 416. Regarding claims 5-8, the Shumate reference discloses a waste oil storage caddy comprising a first container 80, a second container 70, a motor/pump 74, a handle 106, first and second flexible tubing 154 and 155 (see Figure 13, and note that the tubing is connected to the motor and containers through the housing), a filter 78, and wheels 64, but does not disclose a detachable power cord. However, the Examiner takes Official Notice that it is well-known in the art for motors to be powered via power cords detachably mountable to wall outlets, and therefore it would have been obvious to one in the ordinary skill in the art to employ a power cord detachably mountable to a wall outlet on the motor in order to supply electrical power to the motor.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shumate in view of Witt or Anetsberger.

The Shumate reference discloses a system as discussed *supra*, but does not disclose a bracket attached to the fryer. In fact, Shumate remains silent as to the structural details of the fryer. However, attention is directed to the Witt reference, which discloses a fryer having bracket B attached thereto for attachment of a probe assembly. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a bracket on the fryer of the Shumate system in view of the teachings of Witt for attachment of a probe assembly thereto. Alternatively, attention is

directed to the Anetsberger reference, which discloses a fryer having bracket attached thereto (see claim 2) for attachment of a basket-driving motor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a bracket on the fryer of the Shumate system in view of the teachings of Anetsberger for attachment of a basket-driving motor thereto.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shumate in view of Onken.

The Shumate reference discloses a system as discussed supra and further including a control panel 82, but does not disclose a level sensor and shut-off device. However, attention is directed to the Onken reference, which discloses a tank for used cooking oil including level sensor 36 shut-off device 31 for preventing overflow of the tank. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a level sensor and shut-off device in the tank of the Shumate system in view of the teachings of Onken to prevent overflow of the tank.

### ***Conclusion***

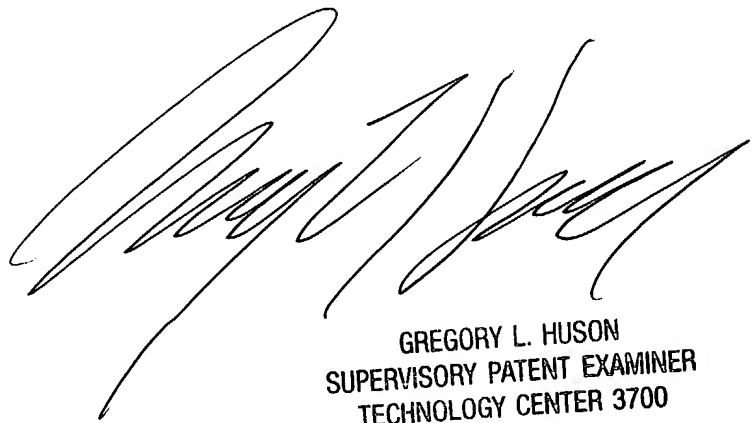
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Sherratt reference discloses a similar system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter T deVore whose telephone number is (703) 306-5481. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pd PJ



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